



Request No. 2018-00218-FOIA-OS

Request No. 2018-00712-FOIA-OS

Campaign for Accountability v. HHS, Civil No. 18-0465 (D.D.C.)

September 21, 2018

Katie O'Connor
Campaign for Accountability

Dear Ms. O'Connor:

This letter is the third interim response to your two above-referenced Freedom of Information Act (FOIA) requests submitted to the U.S. Department of Health and Human Services (HHS).

Specifically, for request 2018-00218-FOIA-OS, you requested communications, meeting notices and agendas, and other materials for several Departmental personnel prior to the date of their hire. Please see the attached FOIA request for the exact records requested.

Specifically, for request 2018-00712-FOIA-OS, you requested communications and calendar entries for Paula Stannard and Heidi Stirrup regarding several outside groups. Please see the attached FOIA request for the exact records requested.

The Department has processed 763 pages of potentially responsive records captured in the agency's search for FOIA request 2018-00712-FOIA-OS. After a careful review of these pages, I have determined to release 68 pages to you in their entirety, and I am further releasing four (4) pages in part, with portions redacted, pursuant to Exemptions (b)(5) and (b)(6) of the FOIA (5 U.S.C. §§ 552 (b)(5), (b)(6)). I have also determined to withhold 436 pages in their entirety, pursuant to Exemptions (b)(5) of the FOIA (5 U.S.C. § 552 (b)(5)). Finally, I determined that one (1) page was determined to be non-responsive to your request and 254 pages were duplicates of pages referenced above.

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement

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of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

We will continue to review the remaining records as efficiently and expeditiously as possible, consistent with our available resources and the Order of the Court. Should you have questions or concerns regarding the Department's response and/or the processing of your request, any such issues should be communicated to your legal counsel and Department of Justice Attorney representing the Department in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M. S. Marquis", with a stylized flourish at the end.

Michael S. Marquis

Director

Freedom of Information and Privacy Acts Division